

AMENDED IN SENATE SEPTEMBER 12, 2003

AMENDED IN SENATE SEPTEMBER 8, 2003

AMENDED IN SENATE AUGUST 18, 2003

AMENDED IN SENATE JULY 9, 2003

AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 653

Introduced by Assembly Member Nunez
(Coauthors: Assembly Members Calderon, Chu, Correa,
Montanez, Ridley–Thomas, and Strickland)
(Coauthors: Senators Cedillo and Murray)

February 19, 2003

An act to add Section 454.6 to the Public Utilities Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

AB 653, as amended, Nunez. Energy: electricity generation facilities: rates.

Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, and authorizes the commission to fix just and reasonable rates and charges. Under existing law, a public utility has a duty to serve, including furnishing and maintaining such adequate, efficient, just and reasonable service, instrumentalities, equipment, and facilities as are necessary to

promote the safety, health, comfort, and convenience of its patrons and the public.

This bill would require the commission, upon application by an electrical corporation, and subject to public hearing, to approve and maintain rates that ensure *that the reasonable costs of owning or operating, or of contracting for the output of, a return of, and on, reasonable investment in* facilities for the generation of electricity, that meet certain criteria, *are fully recovered for the depreciable life of the facility or the term of the contract.*

The bill would make these provisions applicable to an application filed by an electrical corporation on or before December 31, 2008 2006.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. *Section 454.6 is added to the Public Utilities*
2 *Code, to read:*

3 454.6. (a) The Legislature finds and declares all of the
4 following:

5 ~~(a) Investment in new and~~

6 (1) *Investment in new or repowered efficient and cost-effective*
7 *facilities for the generation of electricity that meet all applicable*
8 *environmental requirements is necessary and essential to ensure*
9 *that adequate generating capacity is available to reliably meet the*
10 *needs of California consumers.*

11 ~~(b) Investment in new and~~

12 (2) *Investment in new or repowered efficient and cost-effective*
13 *facilities for the generation of electricity, dedicated to the benefit*
14 *of California consumers, for the life of the facility, or if under*
15 *contract, the term of the contract, at just and reasonable rates, is*
16 *in the public interest.*

17 ~~(c)~~

18 (3) *Investment in repowered electric generation facilities is*
19 *beneficial to California consumers and necessary to replace our*
20 *aging fleet of electric generation facilities with more efficient and*
21 *cost-effective facilities that improve environmental quality, reduce*
22 *costs to consumers, and continue to provide economic benefits to*
23 *the communities in which they are located.*

(4) It is the intent of the Legislature to facilitate investment in the construction and operation of new and repowered facilities for the generation of electricity, licensed by the State Energy Resources Conservation and Development Commission, that meet the long-term resource needs of public utilities and are dedicated to the benefit of California consumers for the life of the facility, *or if under contract, the term of the contract*, on a cost-of-service basis.

~~SEC. 2. Section 454.6 is added to the Public Utilities Code, to read:~~

~~454.6. (a)~~

(b) In order to ensure that adequate generating capacity is available to meet the electricity needs of California consumers in a reliable, efficient, and cost-effective manner, the commission may authorize an electrical corporation to recover in rates pursuant to subdivision (b), ~~investments in new and~~ (c), *investments in, or the costs of contracting for, the output of, new or repowered* facilities for the generation of electricity, that meet all of the following criteria at the time the investments are proposed to the commission:

(1) The electricity generated by the facility is dedicated to serving ratepayers of the electrical corporation for the ~~depreciable~~ *useful* life of the facility or the term of the contract on a cost-of-service basis.

(2) The electricity generated by the facility meets the long-term resource adequacy needs of the electrical corporation.

(3) The electricity generated by the facility is fully dispatchable by the electrical corporation for the benefit of the ratepayers of the electrical corporation.

(4) The facility is licensed by the State Energy Resources Conservation and Development Commission and meets all currently applicable environmental and transmission interconnection requirements.

(5) The investment in the facility and the ratemaking treatment is in the public interest.

~~(b)~~

(c) In order to ensure that adequate investment in electricity generating capacity is made as expeditiously as possible, upon application by the electrical corporation, and subject to public hearing, the commission shall approve and maintain rates that

1 ensure that the reasonable costs of owning and operating, *or*
2 *contracting for the output of*, new ~~and~~ *or* repowered electricity
3 generation facilities that meet the criteria of subdivision ~~(a)~~ *(b)*,
4 including a return of, and on, reasonable investment in new ~~and~~
5 *or* repowered electricity generating facilities, ~~is fully recovered for~~
6 ~~the life of the facility~~ *are fully recovered for the depreciable life*
7 *of the facility or the term of the contract*. This cost recovery
8 assurance for new ~~and~~ *or* repowered electricity generation
9 facilities shall apply on a nondiscriminatory basis to either of the
10 following:

11 (1) Investments by the electrical corporation.

12 (2) The electrical corporation's full cost of contracting *with an*
13 *unaffiliated or unrelated entity* for the portion of electricity
14 produced by a facility that is owned and operated by another entity,
15 that meets the criteria of subdivision ~~(a)~~ *(b)*.

16 ~~(c)~~

17 *(d) The commission shall, in approving rates pursuant to*
18 *subdivision (c) for an electrical corporation's full cost of*
19 *contracting with another entity for electricity generated by a*
20 *facility that meets the criteria in subdivision (b), grant initial*
21 *consideration to approving rates for an electrical corporation's*
22 *full cost of contracting with another entity for electricity generated*
23 *by a repowered facility, if the contract terms offered by the*
24 *repowered facility are at least as favorable to ratepayers as a*
25 *facility that meets the criteria in subdivision (b) and has not been*
26 *repowered.*

27 *(e) An electrical corporation may submit an application for the*
28 *cost recovery assurance described in paragraph (2) of subdivision*
29 *(c) for any facility for which an application for a license from the*
30 *State Energy Resources Conservation and Development*
31 *Commission has been submitted, but which has not been approved*
32 *at the time the electrical corporation submits the application*
33 *pursuant to this subdivision.*

34 *(f) As used in this section, the term "repowered" means a*
35 *facility that undergoes "repowering," as defined in Section*
36 *25550.5 of the Public Resources Code, as that section existed on*
37 *January 1, 2003.*

38 ~~(d)~~

39 *(g) This section applies to an application filed by an electrical*
40 *corporation on or before December 31, 2008 2006.*

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